

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NSC ATLANTIC TRADING GMBH)
& CIE. KG,)
Plaintiff,) Civil Action No.:
v.)
SIVA BULK DMCC,) **IN ADMIRALTY**
Defendant,)
and)
WILHELMSSEN SHIP SERVICE, INC.)
The Master of the M/V PRASLIN,)
Garnishees.)
_____)

**VERIFIED COMPLAINT WITH REQUEST FOR
ISSUE OF PROCESS OF
MARITIME ATTACHMENT AND GARNISHMENT**

COMPLAINT - 1
Case No.

HOLMES WEDDLE & BARCOTT, PC
999 THIRD AVENUE, SUITE 2600
SEATTLE, WA 98104-4011
TELEPHONE (206) 292-8008
FAX (206) 340-0289

1. Plaintiff NSC ATLANTIC TRADING GMBH & CIE. KG (“NSC Atlantic”)
2. brings this action against Defendant SIVA BULK DMCC (“Siva”) *quasi in rem* pursuant
3. to Supplemental Rule B for Certain Admiralty and Maritime Claims, requesting the issue
4. of writs of maritime attachment and garnishment including against the Garnishee and
5. states as follows:
6.

7. **Jurisdiction and Venue**

8. 1. This is an action within this Court’s admiralty jurisdiction pursuant to 28
9. U.S.C. § 1333 and is an admiralty or maritime claim within Fed. R. Civ. P. 9(h).

10. 2. Venue is proper in this District because the Garnishee is located, can be
11. found, and can be served with process in this District.

12. 3. Venue is also proper in this District because Defendant’s property is or
13. soon will be in this District.

14. 4. Defendant cannot be found in this District within the meaning of
15. Supplemental Rule B.
16.

17. **The Parties**

18. 5. NSC Atlantic is a corporation, duly organized under the laws of the
19. German Federal Republic.
20.

21. 6. OCM Maritime Visions LLC, a Marshall Islands entity, is the owner of
22. the vessel PRASLIN, IMO 9544750 (“Vessel”).

23. 7. Siva purports to be a private limited company registered under the laws
24. of the United Arab Emirates. Upon information and belief, Siva chartered the Vessel
25. and has aboard certain fuel bunkers belonging to Siva.
26.

Facts

8. NSC Atlantic bareboat chartered the ALMIRANTE STORNI from its owner, MS NEPTUNE Schiffahrtsgesellschaft MBH & Co KG (“AS Owner”), see Exhibit A.

9. Siva time chartered the ALMIRANTE STORNI from NSC Atlantic under a maritime contract (“Time Charter”) whereby Siva agreed and was obligated to provide and pay for bunker fuel, see Exhibit B.

10. Siva subchartered the ALMIRANTE STORNI to Victore Shipping (“Victore”).

11. As the sub charterer, Victore ordered certain fuel bunkers from Shipoil Limited (“Shipoil”) for the vessel ALMIRANTE STORNI on or about June 6, 2018.

12. Siva and Victore failed to pay for the Shipoil bunkers, and Shipoil began legal proceedings in Brazil and obtained an arrest order against the ALMIRANTE STORNI.

13. NSC Atlantic, as the bareboat charterer of the ALMIRANTE STORNI, was obligated to protect the ALMIRANTE STORNI from lien claims such as that asserted by Shipoil.

14. AS Owner settled the claims of Shipoil under the terms of a Settlement and Assignment Agreement dated as of June 4, 2019, see Exhibit C, which charges were the obligation of NSC Atlantic under the time charter with AS Owner.

15. Under the Bareboat Charter between NSC Atlantic and AS Owner, NSC Atlantic is obligated to reimburse all sums that AS Owner agreed to pay to Shipoil and

1. all costs Owners of the AS have incurred as a result of Shipoil's action against the
2. Vessel. The amounts due are USD\$243,100 plus interest at 2% per month plus costs to
3. date, which at that time were USD \$23,000, plus attorney fees for AS Owner in Brazil
4. of USD\$13,823.

6. **Count I – Breach of Maritime Contract**

7. 16. NSC Atlantic incorporates the above paragraphs as if fully set forth
8. herein.

9. 17. Siva breached its maritime contract with NSC Atlantic as set out above,
10. namely, by failing to pay as the Time Charter requires. Despite repeated demand, NSC
11. Atlantic remains unpaid.

12. 18. When NSA Atlantic commences London arbitration with Siva it will
13. seek recovery of (a) all sums it is obligated to pay AS Owner plus (b) costs of the
14. arbitration (legal costs + Tribunal costs), estimated at USD\$150,000.

16. 19. NSC Atlantic therefore demands judgment, as set out more fully below.

17. **Count II: Maritime Attachment and Garnishment (Rule B)**

18. 20. NSC Atlantic incorporates the above paragraphs as if specifically set
19. forth herein.

21. 21. NSC Atlantic seeks issue of process of maritime attachment so that it
22. may be paid the sums due and owing.

23. 22. No security for NSC Atlantic's claims has been posted by Siva or
24. anyone acting on its behalf to date.

25. 23. Siva cannot be found within this District within the meaning of Rule B,

1. but is believed to have, or will have during the pendency of this action, property and/or
2. assets in this jurisdiction consisting of cash, funds, freight, hire, bunkers, and/or credits
3. in the hands of Garnishees in this District, including but not limited to the named
4. Garnishee.
5.

6. 24. By information and belief, Wilhelmsen (“Wilhelmsen”) is an agent for
7. Siva. Given this, NSC Atlantic believes that Garnishee Wilhelmsen will, therefore,
8. have in its possession funds and deposits belonging to Siva. Garnishee is present in this
9. District and therefore NSC Atlantic believes that funds owed to Siva are also present in
10. this District.

11. 25. Likewise, the Master of the Vessel holds or controls Siva property,
12. including but not limited to the bunkers of the Vessel.
13.

14. **Prayer for Relief**

15. WHEREFORE, NSC Atlantic prays:

16. A. That in response to Count I, this Court have this case proceed for the
17. security of NSC Atlantic against Siva in the amount of at least \$429,923 plus further
18. amounts for interest, costs and attorneys’ fees;
19.

20. B. That in response to Count II, since Defendant cannot be found within this
21. District pursuant to Supplemental Rule B, this Court issue an Order directing the Clerk to
22. issue Process of Maritime Attachment and Garnishment pursuant to Rule B attaching all
23. of Siva’s tangible or intangible property or any other funds held by any Garnishee
24. including the bunkers on board the Vessel, up to the amount of at least the amount
25. demanded herein to secure NSC Atlantic’s claims, and that all persons claiming any
26.

1. interest in the same be cited to appear and, pursuant to Supplemental Rule B, answer the
2. matters alleged in the Verified Complaint;

3. C. That as provided in Supplemental Rule B, that such person over 18 years
4. of age be appointed as moved for herein pursuant to Supplemental Rule B and
5. Fed.R.Civ.P. 4(c) to serve process of Maritime Attachment and Garnishment in this
6. action;
7.

8. D. That this Court award NSC Atlantic such other and further relief that this
9. Court deems just and proper.

10. Dated: June 28, 2019.

11. HOLMES WEDDLE & BARCOTT, PC
12. Attorneys for Plaintiff Coastal Transportation, Inc.

13.
14. /s/ John E. Casperson
15. John E. Casperson, WSBA No. 14292
16. 999 Third Avenue, Suite 2600
17. Seattle, WA 98104-4011
18. Fax: 206-340-0289
19. Email: jcasperson@hwb-law.com
20.
21.
22.

23. G:\827\16583 - JEC\PRASLIN\Complaint 6-28-19.docx
24.
25.
26.

VERIFICATION

I, Barry Avliiŕe, being first duly sworn, upon oath depose and state that I am a Senior Solicitor with The North of England P&I Association, Limited, the insurance underwriter for plaintiff in this action. I have read the above and foregoing complaint, know the contents thereof and believe the same to be true. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this ____ day of June, 2019.



Barry Avliiŕe, Senior Solicitor
The North of England P&I Association,
Limited

COMPLAINT-1
Case No.

HOLLAND WENDLE & BARONET, PC
200 BROAD AVENUE, SUITE 2000
JERSEY, NJ 07102-4001
TELEPHONE (201) 594-1000
FAX (201) 594-1000